

OFFICE OF THE DIRECTOR
DEPARTMENT OF MOTOR VEHICLES
P.O. BOX 932328
SACRAMENTO, CA 94232-3280



TITLE 13: DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (department) proposes to adopt Section 29.01 in Article 2.1, Chapter 1, Division 1 of Title 13 of the California Code of Regulations, relating to Commercial Drivers Licenses.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 p.m., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M., **DECEMBER 8, 2014**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt this regulation under the authority granted by Vehicle Code section 1651, in order to implement, interpret, or make specific Vehicle Code section 15250 and Part 383 of Title 49, Code of Federal Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department of Motor Vehicles (department) proposes to adopt Section 29.01 in Article 2.1, Chapter 1, Division 1 of Title 13 of the California Code of Regulations, relating to Commercial Drivers Licenses.

Vehicle Code section 15250 allows the department to issue commercial driver licenses to applicants upon successful completion of specified written and driving tests. Knowledge and performance standards in the written and driving tests are designed to comply with provisions of the Federal Commercial Motor Vehicle Safety Act of 1986, as well as Part 383 of Title 49, Code of Federal Regulations (CFR).

In order to ensure safety guidelines are followed by commercial driver license holders, federal regulations provide a period of commercial license disqualification when a license holder is convicted of a serious driving offense. During the disqualification period, a commercial driver license holder is prohibited from operating a commercial vehicle.

Section 383.51(c) of Title 49, Code of Federal Regulations, provides a list of offenses that are determined to be serious in nature and provide disqualification periods for those offenses. To ensure clarity and consistency with federal regulations, the department has determined it necessary to identify offenses determined to be serious and document them in Title 13 of the California Code of Regulations.

PROBLEMS THIS DEPARTMENT INTENDS TO ADDRESS AND BENEFITS

In a recent audit conducted by the Federal Motor Carrier Safety Administration (FMCSA), California was found to be out of compliance due to its lack of regulations related to the disqualification of a commercial driver license. Specifically, there are no regulations to identify which Vehicle Code violations correspond to the federal violations that require a disqualification. When the department is not in compliance with federal requirements, it risks losing its authority to issue and renew commercial driver licenses and the state is in jeopardy of losing federal highway funds. Benefits to this action include the ability of the Department to bring California into compliance with the requirements of the FMCSA by providing a clear correlation between federal regulations and state statutes, ensuring California will continue to receive federal highway funds. Finally, the regulatory proposal will potentially benefit the environment, health, welfare, and safety of California residents by disqualifying commercial drivers convicted of serious traffic violations and to ensure the safety of the state's roadways and highways.

COMPARABLE FEDERAL AND STATE REGULATIONS

This proposed action will bring California into compliance with the requirements of the FMCSA by providing a clear correlation between federal regulations and state statutes.

CONSISTENCY AND COMPATIBILITY WITH OTHER STATE REGULATIONS

The department has conducted an evaluation for any regulations on this area and has concluded that these are the only regulations dealing with disqualification of commercial drivers. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

ECONOMIC AND FISCAL IMPACT DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- Cost or Savings to Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None. This action has no costs or savings however, compliance with federal requirements will ensure the department continues to receive federal highway funds.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. These regulations

will bring California into compliance with federal regulations which may affect small businesses who hire commercial drivers.

- Effects on Housing Costs: None.
- Local Agency/School District Mandates: The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Small Business Impact: This proposed action may affect small business.
- Potential significant statewide adverse economic impact: The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The department states the following results of its Economic Impact Assessment per Government Code section 11346.3(b):

- 1) The creation or elimination of jobs within the State of California.
 - The proposed regulation will neither create nor eliminate jobs within the State of California. It will only impact commercial drivers who are convicted of a second or third serious traffic violation and any business that employs a commercial driver under these established provisions could be impacted by the loss of a driver.
- 2) The creation of new businesses or the elimination of existing businesses within the State of California.
 - The proposed regulation will neither create new businesses nor eliminate existing businesses within the State of California. This proposal brings the State of California into compliance with the requirements of the federal regulations.
- 3) The expansion of businesses currently doing business within the State of California.
 - This proposed regulation will not expand businesses currently doing business within the State of California it simply provides a clear correlation between federal regulations and state statutes.
- 4) Benefits of Regulation to the Health and Welfare of California Residents, Worker Safety and the State's Environment.
 - This regulatory action has no impact on the worker safety or the state's environment; however, there will be potential benefits to the health and safety and welfare of California residents by disqualifying commercial drivers with serious violations from operating commercial vehicles on the state's roadways.

PUBLIC DISCUSSIONS OF PROPOSED REGULATION

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department, or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Randi Calkins, Regulations Analyst
Department of Motor Vehicles
Legal Affairs Division
P.O. Box 932382, MS C-244
Sacramento, CA 94232-3820

Any inquiries or comments concerning the proposed rulemaking action requiring more immediate response may use:

Telephone: (916) 657-8898
Facsimile: (916) 657-6243
E-Mail: LADRegulations@dmv.ca.gov

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Shelly Johnson Marker, Chief of Staff
Telephone: (916) 657-6469

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an Initial Statement of Reasons for the proposed regulatory action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the Express Terms of the proposed regulatory action using underline or italics to indicate additions to, and strikeout to indicate deletions from the California Code of Regulations.

The contact person identified in this notice shall also make available to the public, upon request, the Final Statement of Reasons and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, and Express Terms) may be accessed at <http://www.dmv.ca.gov/portal/dmv/dmv/dmvhomes/regulatoryactions>.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period and the hearing, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.